

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Jonathan Lee Smith,

Case No.: 2:21-cv-01062-JAD-EJY

Plaintiff

**Order Adopting Report
and Recommendation and
Dismissing Case**

v.

[ECF No. 7]

Clark County District Attorney Family
Division; Inskeep,

Defendants

Pro se plaintiff Jonathan Lee Smith brings this civil-rights lawsuit against the Clark County District Attorney and one of its Child Support Enforcement employees, alleging that they violated his due-process rights by extracting past-due child-support obligations from his prison account.¹ Because Smith applies to proceed *in forma pauperis*, the magistrate judge screened his complaint under 28 U.S.C. § 1915(e)(2). And because the targets of this complaint are immune from this suit under the law, the magistrate judge recommends that I dismiss this action and close this case.² Smith objects to that recommendation.³

Unfortunately, Smith's objections do not overcome the reason that this case must be dismissed. As the Nevada Supreme Court recognized in *County of Washoe, on relation of its Office of the District Attorney, Nonsupport Division v. Second Judicial District Court*, a district attorney is immune from damages for actions related to the performance of civil obligations related to child-support enforcement.⁴ And the Ninth Circuit has recognized that enforcement of

¹ ECF No. 1-1.

² ECF No. 7 (report and recommendation).

³ ECF No. 8 (objections to report and recommendation).

⁴ *County of Washoe v. Second Jud. Dist. Ct.*, 652 P.2d 1175, 1176 (Nev. 1982).

1 child-support orders by a district attorney is an integral part of the judicial process that warrants
 2 prosecutorial immunity.⁵ That immunity “is essential if prosecutors are to be able independently
 3 to perform their public duties free from fear that their actions might give rise to civil liability.”⁶
 4 And “a prosecutor’s post-adjudication activities also enjoy absolute immunity.”⁷ So the law
 5 immunizes the defendants here from Smith’s suit.

6 Smith argues that he isn’t suing for monetary damages—he’s couched his claim as one
 7 “for a reparative [sic] injunction”⁸—so that immunity does not apply. But characterizing his
 8 claim this way doesn’t make it a true equitable-relief claim. Smith’s complaint makes it clear
 9 that he is seeking “the return of . . . funds” collected from his account, “with interest.”⁹ That’s
 10 money damages, not equitable relief. Plus, the request for relief in his complaint does not
 11 mention an injunction or any other type of equitable relief.¹⁰ So the true nature of Smith’s suit is
 12 monetary damages, and the defendants are immune from it.¹¹

13 Smith also “finds it strange that the magistrate did not elaborate on the issue of due[-]
 14 process violations or the fact the D.A.’s office intentionally violated federal regulations that
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16 ⁵ See, e.g., *Meyers v. Contra Costa County Dept. of Soc. Servs.*, 812 F.2d 1154, 1156–59 (9th
 Cir. 1987).

17 ⁶ *Coverdell v. Dept. of Soc. & Health Svcs.*, 834 F.2d 758, 762 (9th Cir. 1987).

18 ⁷ *Cash v. Los Angeles County Dist. Atty.*, 50 F.3d 13, *1 (9th Cir. 1995) (unpublished); see also
Demery v. Kupperman, 735 F.2d 1139, 1144 (9th Cir. 1984).

19 ⁸ ECF No. 8 at 2.

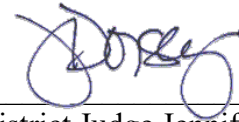
20 ⁹ ECF No. 1-1 at 6.

¹⁰ *Id.* at 15.

21 ¹¹ Smith cites to the Fifth Circuit’s decision in *LeClerk v. Webb*, 419 F.3d 405 (2005), for the
 22 proposition that a judge, acting in an enforcement role, is not immune from suit. But the *LeClerk*
 23 court held that this was true only for equitable-relief claims, not monetary-damages suits, so
LeClerk does not support Smith’s objection here. See *LeClerk*, 419 F.3d at 414 (“When acting in
 its enforcement capacity, the Louisiana Supreme Court, and its members, *are not immune from*
suits for declaratory or injunctive relief.”) (emphasis added).

1 resulted in the violation of [his] due process” so “this is not a suit solely based on a D.A.
2 enforcing a child[-]support order.”¹² And he objects that, here, the district attorney “was not
3 carrying out a state order”—the order wasn’t even in his name. But these are distinctions
4 without a difference for immunity purposes. As the Ninth Circuit has held, prosecutors are
5 absolutely immune from all theories of claims based on quasi-judicial activities taken within the
6 scope of their authority, even when “grave procedural errors” are made.¹³

7 IT IS THEREFORE ORDERED that Smith’s objections [ECF No. 8] are OVERRULED
8 and the Report and Recommendation [ECF No. 7] is **ADOPTED**. This action is DISMISSED
9 with prejudice. The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE
10 THIS CASE. *In forma pauperis* status should not continue on appeal.

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13 U.S. District Judge Jennifer A. Dorsey
14 Dated: July 12, 2022
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23 ¹² ECF No. 8 at 1.

¹³ *Ashelman v. Pope*, 793 F.2d 1072, 1077–78 (9th Cir. 1986).